

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

IN RE:

KENNETH EUGENE SHELTON

Debtor.

)  
)  
)  
)  
)

CASE NO: 3:16-bk-07936

CHAPTER 13

JUDGE CHARLES M. WALKER

---

**EXPEDITED MOTION TO UTILIZE INSURANCE PROCEEDS  
TO PURCHASE SUBSTITUTE COLLATERAL  
&  
TO REQUIRE LIENHOLDER TO RELEASE LIEN ON TITLE OF  
DESTROYED VEHICLE TO ALLOW DISPOSITION OF SALVAGE**

---

Come now the Debtor, by and through counsel, pursuant to Local Rule 9075-1, and requests an expedited hearing on a Motion to Utilize Insurance Proceeds to Purchase Substitute Collateral and to Require Lienholder to Release Lien on Title of Destroyed Vehicle to Allow Disposition of Salvage. In support of this Motion, Debtor states the following:

1. **Expedited Relief Requested:** Debtor moves for an order:
  - a. For authorization to utilize insurance proceeds in the estimated amount of \$9,389.33 from Progressive Insurance Company for the purchase of substitute collateral of substantially similar value. Said proceeds being issued because of damages caused by an automobile accident; and
  - b. To require the lienholder, InSolve Auto Funding, LLC to release its lien on the title of the “totaled” vehicle and remit said title to Progressive Insurance Company to allow disposition of the salvage value in the vehicle.
  - c. To require InSolve Auto Funding, LLC to substitute as collateral on its claim the replacement vehicle.
2. **Reason for Urgency:** Debtor request that the Court hear this Motion on an expedited basis because Debtor needs a replacement vehicle as soon as possible for transportation to work, to avoid expenses for a rental vehicle, and to avoid further delay.

3. **Notice:** Once an Order setting a hearing on this motion is entered, Debtor's counsel will give notice to the United States Trustee and Chapter 13 Trustee via electronic service through the ECF filing system and to the Debtor and creditors by first-class United States mail. Debtor's counsel will send notice by email and fax to a representative for InSolve Auto Funding, LLC.
4. **Proposed Hearing Date:** Debtor proposes that this Expedited Motion be set for hearing on Wednesday, January 6, 2021, at 8:30 am by AT&T conference line number 1-888-363-4749, allowing at least one week's notice to the parties involved, or on the next available docket this Court deems appropriate.
5. **Information in Support of the Motion:** In support of this Motion, Debtor represents the following:
  - a. The Debtor's automobile was stolen from him and totaled in Nashville, Tennessee. The vehicle is secured by a debt to InSolve Auto Funding, LLC, and the balance due on the claim filed is approximately \$5,520.43.
  - b. Debtor filed a claim with Progressive Insurance Company and the insurance company assessed the automobile as "totaled". The insurance company provided an estimate of \$9,389.33 for the vehicle in exchange for possession of the wrecked vehicle for the purposes of obtaining salvage value.
  - c. Further, Progressive Insurance Company requires lienholder to release its lien and turn over title to the automobile.
  - d. Debtor proposes as follows:
    1. To use the insurance proceeds to purchase a replacement vehicle of substantially similar value, subject to approval of to InSolve Auto Funding, LLC.
    2. Approval of the replacement vehicle must be sent to to InSolve Auto Funding, LLC by way of a buyer's order. to InSolve Auto Funding, LLC shall have 72 hours to inspect and/or investigate if the replacement vehicle is substantially similar and to accept or reject the vehicle as a replacement. If InSolve Auto Funding, LLC fails to reject the

vehicle within 72 hours upon the receipt of a buyer's order, then it is automatically deemed as accepted.

3. Once the approved buyer's order is provided to Progressive Insurance Company, Progressive Insurance Company shall make a check payable to the dealership from which the Debtor is purchasing the replacement vehicle in an amount equal to the insurance coverage or the total purchase price indicated on the buyer's order, whichever is less, within 72 hours.
4. Should to InSolve Auto Funding, LLC fail to approve a second submitted buyer's order, to InSolve Auto Funding, LLC shall be given 72 hours in which to locate an available vehicle meeting their requirement available for purchase at the amount of the insurance proceeds. If InSolve Auto Funding, LLC fails to provide this information, then the last submitted buyer's order shall be deemed accepted.
5. Should the replacement vehicle's purchase price exceed the estimated insurance proceeds, then the Debtor shall be responsible for paying the difference at the time of purchase.
6. Should the replacement vehicle's purchase price be less than the insurance proceeds, the insurance company shall make a check payable to the dealership for the amount necessary to purchase the vehicle and the excess funds shall be made payable to InSolve Auto Funding, LLC. Should InSolve Auto Funding, LLC receive any excess funds, they shall amend their proof of claim with the Court within 30 days.
7. InSolve Auto Funding, LLC shall release its lien on the Certificate of Title to the automobile and provide the Title to the insurance company. As consideration for the release of its security interest in the automobile, the replacement vehicle shall be substituted as collateral and InSolve Auto Funding, LLC shall be granted a lien on said replacement vehicle.

WHEREFORE, the Debtor respectfully prays this Honorable Court enter an order for the relief as proposed by the Debtor above and any further and just relief this Court deems necessary.

Dated on December 30, 2020.

Respectfully submitted,

/s/ Alise Housden

---

Alise Housden, TN Bar # 34282  
Long, Burnett & Johnson, PLLC  
302 42<sup>nd</sup> Avenue North  
Nashville, TN 37209  
T: 615-386-0075  
F: 615-864-8419  
[ecfmail@tennessee-bankruptcy.com](mailto:ecfmail@tennessee-bankruptcy.com)

*Attorney for Debtor*